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Applicant: Solomon et al.
Appl. No.: 10/618,856
Filed: July 15, 2003
Title: IMMUNIZATION AGAINST AMYLOID PLAQUES USING DISPLAY
TECHNOLOGY
Attorney Docket No.: SOLOMON=2a.1
Pub. No.: US 2004/0052766 A1
Pub. Date: March 18, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 25, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication published incorrectly list that the parent application 09/743,653 is abandoned on the front page of the patent application publication. Applicant argues that it is a material error, as it is important for the public reviewing the publication to have correct information about related applications.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The error in the status of the parent application is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the status of the parent application is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the parent application number and its filing date are correctly published. While the status information of the parent application is incorrectly listed as abandoned, anyone looking to the parent application would have to order the application file and would be reviewing PALM, which correctly list the application as patented. While applicant's representative argues that the application should have been correctly published, as the abandonment in the parent application was withdrawn by the Office before the publication of the application, the publication process begins about 14 weeks before the projected publication date and the change in the status was made too late to be reflected in the publication.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).


Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy